UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,672	10/19/2000	Gregory L. Slaughter	5181-72200	7201

7590	04/11/2006

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EXAMINER
PATEL, HARESH N

ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 04/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Advisory Action *Before the Filing of an Appeal Brief*	09/693,672	SLAUGHTER ET AL.
	Examiner	Art Unit	
	Haresh Patel	2154	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>13 March 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *8-11,57-60 and 106-109*.

   Claim(s) objected to: *None*.

   Claim(s) rejected: *1-7,12-24,51-56,61-73,100-105,110-117,136 and 138*.

   Claim(s) withdrawn from consideration: *None*.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Continuation of 11. does NOT place the application in condition for allowance because: the cited prior arts still render the claims unpatentable and the final rejection is deemed proper.

Also, the specification of this application, page 203, lines 14 - 19, clearly states, "Various modifications and changes may be made as would be obvious to a person skilled in the art having the benefit of this disclosure. It is intended that the invention embraces all such modifications and changes and, accordingly, the specifications, appendices and drawings are to be regarded in an illustrative rather than a restrictive sense". Since, applicant's claims contain broadly claimed subject matter it clearly reads upon the examiner's interpretation of the claimed subject matter.

Response to Arguments

Applicant's arguments filed 3/13/2006 have been fully considered but they are not persuasive. Therefore, rejection of the claims is maintained.

Applicant argues (1), "The Examiner's reliance on Tuatini is misplaced as discussed as bridging and proxy service is not well-known in the art as asserted by the examiner. Therefore, the Examiner's double patenting rejection is not supported by the cited art".

The examiner respectfully disagrees to the applicant's argument. Tuatini discloses the well-known use of bridging and proxy service (e.g., col., 14, paragraph 122 - col., 15, paragraph 132). Further, Machin also discloses the well-known concept of bridging and proxy service (e.g., col., 12, paragraphs 136 - 138, abstract). Pitts, 6,505,241, also discloses these limitations, (e.g., col., 8, lines 4 - 27, col., 47, line 30 - col., 48, line 45). Mead et al., 6,601,728 also discloses these limitations, (e.g., col., 3, lines 1 - 29). Alexander Jr. et al., IBM, 5,946,311 also discloses these limitations (col., 7, line 53 - col., 8, line 6). Giese, Nortel Networks Limited, 6,621,895, also discloses these limitations (e.g., col., 18, lines 5 - 58). Cheng, 2001/0032273 also discloses these limitations (e.g., paragraph 57). Glide et al., F5 Networks Inc., 2001/0037387 also discloses these limitations (e.g., paragraph 90). Machin et al., 2002/0032806, also discloses these limitations (e.g., paragraph 136). Szabo 2002/0138618 also discloses these limitations (e.g., paragraph 99). Therefore, the double patenting rejection is maintained.

Applicant argues (2), Tuatini do not disclose, teach, or suggest the applicant's claimed, sending a schema to the client application, sending a schema defining messages in a data representation language for accessing the directory service, a proxy service sending the XML DTD to a client component".

The examiner respectfully disagrees in response to applicant's arguments. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies, "a schema to the client application, sending a schema defining messages in a data representation language for accessing the directory service, a proxy service sending the XML DTD to a client component", are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The First inquiry must be into exactly what the claims define. See In re Wilder, 166 USPQ 545, 548 (CCPA 1970). Considering the claimed limitations to which the applicant is concerned, it seems that applicant is implying that the cited references do not disclose "proxy client" / "accessing of a Jini Service proxy from clients", which the claims are not limited to.

What is claimed is, "the proxy service, sending to the first entity a schema defining message, schema defining messages in a data representation language". Contrary to applicant's assertions, the cited reference, Tuatini discloses these limitations, the proxy service (e.g., col., 14, paragraph 122 - col., 15, paragraph 132), sending to the first entity a schema defining message (e.g., XML DTD available to others on the network and retrieving of the XML DTD from the shared location, paragraphs 122 - 130), schema defining messages in a data representation language (e.g., XML DTD available to others on the network and retrieving of the XML DTD from the shared location, paragraphs 122 - 130). The specification of this application, page 203, lines 14 - 19, clearly state, "Various modifications and changes may be made as would be obvious to a person skilled in the art having the benefit of this disclosure. It is intended that the invention embraces all such modifications and changes and, accordingly, the specifications, appendices and drawings are to be regarded in an illustrative rather than a restrictive sense". Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. Therefore, the rejection is maintained.

Applicant argues (3), "This rejection is improper because the Examiner has not shown that Tuatini qualifies as a prior art reference", "Since it is common practice for a later filed utility application to include more or different subject matter than its earlier provisional applications, it is unclear whether the material in Tuatini relied upon by the Examiner was actually present in Tuatini's provisional applications".

The examiner respectfully disagrees in response to applicant's arguments. The provisional applications, i.e., 60/173,666 and 60/173,712, available using IFW / EDAN, not only shows that the subject matter on which the is relied upon to reject the claims is present in the Tuatini's provisional applications, but also shows at least one claim of the published utility application is supported in the provisional application, e.g., pages 4, 16, 78, 112, 236, 324 and 428 (Also see pages 305 - 323 for further clarification). Hence, Tuatini is qualified as a prior art reference. Therefore the rejection in maintained.

Applicant states (4), "examiner to provide a legible copy of page 324 of the 60/173,712".
For clarification; both applications, 60/173,666 and 60/173,712, are available using IFW / EDAN. Examiner is not providing a copy of the page 324, which the applicant already has access to and the   applicant already reviewed. Regarding to the contents of the

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flowchart (figure) of the page 324, applicant is requested to see the related pages of the applications that describe and are related to the flowchart (figure).

Applicant argues (5), "Mead teaches a system in which multiple proxy devices coordinate to communicate messages between local area networks via a wide area network using a transparent bridging system. Specifically, Mead teaches the use of a master proxy device that mediates and selects which of the proxy devices should handle which messages sent between a local area network and a wide area network", "Mead's proxy devices only route messages", "only discloses a transparent bridging mechanism", "Mead's system are not aware of Mead's proxy devices at all and do not view the proxy devices as some other entity in the computing environment", hence, Mead cannot teach the relied upon limitations.

The examiner respectfully disagrees in response to applicant's arguments. The cited reference, i.e., Mead's teachings and disclosure are not limited to the applicant assertions. Contrary to applicant's assertions, Mead also discloses the well-known concept of using the proxy service that appears to the first entity as the second entity (e.g., col., 3, line 1 - col., 4, line 24). Attached is copy of computer dictionary that contain well-known definitions i.e., proxy, bridge, schema, etc. Also, the specification of this application, page 203, lines 14 - 19, clearly state, "Various modifications and changes may be made as would be obvious to a person skilled in the art having the benefit of this disclosure. It is intended that the invention embraces all such modifications and changes and, accordingly, the specifications, appendices and drawings are to be regarded in an illustrative rather than a restrictive sense". Since, applicant's claims contain broadly claimed subject matter, it clearly reads upon the examiner's interpretation of the claimed subject matter. Therefore, the rejection is maintained.

Applicant argues (6), "cited references, i.e., Tuatini, AAPA (applicant's admitted prior art) do not contain a suggestion, or motivation to modify or to combine with each other.

The examiner respectfully disagrees in response to applicant's arguments. In response to the references containing a suggestion, or motivation to modify or to combine with each other, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of a primary reference. It is also not that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinally skill in the art. In re Keller, 642 F.2d 414, 425, 208 USPQ 871, 881 (CCPA 1981); In re Young, 927 F.2d 588, 591, 18 USPQ2d 1089, 1091 (Fed. Cir. 1991). Tuatini dicloses a method for bridging a first computing environment based upon a message passing model to a second computing environment (e.g., heterogeneous distributed environment, figure 1, col., 14, paragraph 122 - col., 15, paragraph 140). AAPA discloses the well-known concept of using Jini environment (e.g., Jini environment, pages 2-6 of the specification). The Jini environment would provide access to the Jini services. The Jini services would provide information to the client over the network. The client would utilize the provided information. Therefore, the rejection is maintained.